IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2731 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAVITA N AMIN

Versus

UNION OF INDIA

Appearance:

MR SN SHELAT for Petitioner

MR ANANT S DAVE for the Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 06/02/2001

ORAL JUDGEMENT

By means of this petition, the petitioner seeks for quashing and setting aside the order dated 9th March, 1992 and for setting aside the demand made in the bill for the period from 15th October, 1991 to 15th

December, 1991 and for a direction to the respondents to accept bill on average demand for the last nine months made by the department.

2. It is stated that the petitioner was having telephone number 323354. The petitioner received a bill of Rs. 48,836/- on 1.1.1992 for the period from 15th October, 1991 to 15th December, 1991. The bill was exorbitant and excessive. It is stated that for the period from 15.2.91 to 15.4.91, 15.4.91 to 15.6.91, 15.6.91 to 15.8.91, 15.8.91 to 15.10.91 and 15.10.91 to 15.12.91 bills were issued respectively for Rs. 1942/-, Rs. 1173/-, Rs. 5333/-, Rs. 8700/- and Rs. 48,618/-. After the receipt of the bill for Rs. 48618/-, the petitioner lodged a complaint on 7th February, 1992. For the non-payment of the bill, the department disconnected the phone. The petitioner therefore, required the department to furnish information as to number of calls really made. The petitioner also requested the department to keep the telephone under observation. She also made a complaint for cross-checking. The complaint was made on 7th February, 1992 and another letter was also sent on 19th February, 1992 and thereafter on 28th February, 1992. The petitioner required the details regarding the calls made from the said telephone. On 9th March, 1992 the petitioner was informed by the Accounts Officer that the complaint was investigated by D.E.M. but no rebate could be allowed in the local calls for the period under dispute. The petitioner was not given the required information by the department. The petitioner had never claimed any rebate as stated in the order by the department. It is also averred that the petitioner was not informed about the result of their investigation and if any investigation was carried out, that was behind the back of the petitioner and it was arbitrary, discriminatory and illegal.

3. The learned counsel for the petitioner also stated that due to defect in the meter, it was also possible to give incorrect figures for the calls to be billed. Hence, the petitioner has filed the present petition for setting aside the order passed by the respondents and for a direction to carry out a fresh investigation.

4. This Court, by its order dated 20th April, 1992 directed the department to restore the connection of the petitioner on the petitioner depositing a sum of Rs.20,000/- in respect of the bill for the period from 15th October, 1991 to 15th December, 1991. In compliance of that order, the petitioner deposited the

required amount and the telephone was re-connected.

5. Heard the learned counsel for the parties and perused the relevant papers on record. It appears that some excessive bill has been issued to the petitioner for the period from 15th October, 1991 to 15th December, 1991. The petitioner required certain information regarding the calls which has not been provided so far. Even according to the learned counsel for the petitioner, there may be a fault in reading the calls and the petitioner also made a prayer for the cross-checking. But it does not appear that anything has been done. In the facts and circumstances of the case, the department is required to carry out a fresh investigation in accordance with rules.

6. As such, in the facts and circumstances of the case, this petition is being disposed of finally with a direction to the respondents to carry out a fresh investigation. If, on investigation, it is found that there is an excess bill, then the petitioner would be entitled after adjustment of actual amount of bill for the refund of the amount which has already been deposited in compliance with the order of this Court with interest at the rate of 15% per annum. In the same way, if the bill is found genuine, then the petitioner will be required to deposit the remaining amount of the bill with interest at the rate of 15% per annum. In case the petitioner is not satisfied with the decision of the authority concerned, the petitioner would be at liberty to refer the matter to the arbitrator under section 7B of the Indian Telegraphic Act. The respondents are directed to complete the investigation as stated above within three months from the date of receipt of writ from this Court or on presentation of a certified copy of this order. The interim relief already granted shall continue till the final decision that may be taken by the authority concerned. Rule is discharged with no order as to costs.

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